

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

EMMANUEL G. JUSTINIANO, JOSE NIEVES,  
JOSE BARBOSA, DAHEED WILLIS, ANTHONY  
KEITT, FRANK FODERA, JOSHUA MOSS,  
OSCAR PUERTA, LUIS ARENAZA,  
GUILLERMO MUNOZ, MILTON LAVERDE,  
WILLIE S. BREWER, ISMAEL FRANCISCO,  
STEVE M. NG, MANUEL SANTOS, JULIO  
RIVERA, FREDDY VELEZ, BRYONT A LOPEZ,  
MIGUEL CABREJA, JUAN VEVAS, TERRENCE  
JONES, NICOLAS SALGADO, LUIS A. VEGA,  
LOUIS TELESE, KENNETH WARING, ANTONY  
G. HILL, JOSE GOMEZ ROSARIO, RODERICK  
MASHALL, JOSE BLANCO, DAVID BAEZ,  
KENYA EARLY, SAMMY HERNANDEZ,  
NELSON MINYETY, BILL DELVIN, EDWIN J.  
RAMIREZ CESPEDES, BENTO RODRIGUEZ,  
PAUL STARAPOLA, ANDRES REYES, JESUS A.  
MARTINEZ, DAVID BEACH, JONATHAN  
DELROSARIO, JAMES SHAW, GARFIELD  
GAMMON, DESEAN ALLEN, DERREK  
HUGHES, JORGE A. MILANES, *and* CARMELO  
NYANDUGAR, *each individually and on behalf of  
all other individuals similarly situated,*

Plaintiffs,

v.

PHOENIX BEVERAGES, INC., WINDMILL  
DISTRIBUTING COMPANY LP, d/b/a  
PHOENIX/BEEHIVE, RODB, LLC, LONGFENG  
TRUCKING, LLC, PHOENIX BEVERAGES MTO,  
LLC, FORBEE CAPITAL KEG FUND, LLC,  
HEINEKEN NORTH AMERICA, INC.,  
HEINEKEN USA INCORPORATED, RODNEY  
BREYMAN, GREGORY BREYMAN, PAUL  
ROSSI, JOSEPH STANICH, *and* GEORGE  
STRADA,

Defendants.

Case No. 13-CV-2332 (LTS) (JLC)

**NOTICE OF MOTION FOR  
SANCTIONS PURSUANT TO  
FED. R. CIV. P. 11**

PLEASE TAKE NOTICE that upon the Declaration of Robert E. Crotty, Esq. executed on June 5, 2013 and exhibits annexed thereto, and the Memorandum of Law in support of Defendants' Motion for Sanctions Pursuant to Fed. R. Civ. P. 11, submitted herewith, Defendants Windmill Distributing Company, LP, d/b/a Phoenix/Beehive, Phoenix Beverages, Inc., RODB, LLC, Longfeng Trucking, LLC, Phoenix Beverages MTO, LLC, Forbee Capital Keg Fund, LLC, Heineken USA Incorporated, Rodney Brayman,<sup>1</sup> Gregory Brayman,<sup>2</sup> Paul Rossi, Joseph Stanich, and George Strada (collectively "Phoenix" or "Defendants") will move this Court at a date and time to be determined by the Court, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, for an Order sanctioning Plaintiffs' attorneys Walker G. Harman, Jr. and Peter J. Andrews of The Harman Firm, P.C. (collectively, "Harman") and requiring Harman to pay Defendants' costs and legal fees incurred in defending this action, and granting any other relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that this action has been assigned to the S.D.N.Y. Pilot Project for Complex Civil Cases and, therefore, the Individual Practice Rule 2(b)(ii) certification is not required. Nevertheless, Defendants state that, as set forth in the Declaration of Robert E. Crotty executed on June 5, 2013 and exhibits annexed thereto, Defendants communicated with Plaintiffs' counsel in an effort to resolve the matter without motion practice.

---

<sup>1</sup> Brayman is incorrectly spelled in the case caption as "Breyman."

<sup>2</sup> Brayman is incorrectly spelled in the case caption as "Breyman."

PLEASE TAKE FURTHER NOTICE that this Motion was served on June 5, 2013, and shall be filed if necessary in accordance with Fed. R. Civ. P. 11(c)(2).

Dated: New York, New York  
June 5, 2013

KELLEY DRYE & WARREN LLP

By: 

Eugene T. D'Ablemont

Robert E. Crotty

Taraneh J. Marciano

101 Park Avenue

New York, New York 10178

Telephone: (212) 808-7800

Facsimile: (212) 808-7897

[edablemont@kelleydrye.com](mailto:edablemont@kelleydrye.com)

[rcrotty@kelleydrye.com](mailto:rcrotty@kelleydrye.com)

[tmarciano@kelleydrye.com](mailto:tmarciano@kelleydrye.com)

*Attorneys for Defendants*